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COMMISSION ON HUMAN RIGHTS

Forty-ninth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)*
OF THE 56th MEETING

Held at the Palais des Nations, Geneva
on Friday, 5 March 1993, at 10 a.m.

Chairman: Mr. ENNACEUR (Tunisia)

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Statement by Mr. Klaus Kinkel, Federal Minister for Foreign Affairs of Germany

Rights of the child, including:

(a) Status of the Convention on the Rights of the Child;

* The summary record of the second part (closed) of the meeting appears as document E/CN.4/1993/SR.56/Add.1.

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(b) Report of the Special Rapporteur on the sale of children;

(c) Programme of action for the elimination of the exploitation of child labour;

(d) Programme of action for the prevention of the sale of children, child prostitution and child pornography

The meeting was called to order at 10.20 a.m.

STATEMENT BY MR. KLAUS KINKEL, FEDERAL MINISTER FOR FOREIGN AFFAIRS OF GERMANY

1. The CHAIRMAN invited the Minister for Foreign Affairs of Germany to address the Commission.

2. Mr. KINKEL (Germany) said that, 45 years after the promulgation of the Universal Declaration of Human Rights, the situation regarding implementation of those rights continued to be unsatisfactory. All over the world, men, women and children were the victims of the most brutal human rights violations; the number of summary or arbitrary executions had increased dramatically; enforced or involuntary disappearances had become an especially cynical method of getting rid of political opponents; and the situation was no better where economic, social and cultural rights were concerned. Two countries were at the forefront where atrocities and misery were concerned: Somalia and the former Yugoslavia.

3. Those who committed such crimes must systemically be brought to account. The United Nations General Assembly had indeed given the International Law Commission a mandate to draw up a statute for an international criminal tribunal. However, that task would take some time, given the difficult and complex issues involved. Meanwhile, in view of the seriousness of the human rights violations in the former Yugoslavia, the world could not in conscience wait for that work to be finished. The Security Council's unanimous decision of 22 February 1993 to set up an ad hoc war crimes tribunal was thus to be welcomed as timely and just. Several investigations into crimes committed in the former Yugoslavia had brought to light conclusive and verifiable evidence. Furthermore, the unanimous adoption by the Commission on Human Rights of the general resolution on the situation of human rights in the territory of the former Yugoslavia and the resolution on the rape and abuse of women showed that the international community was as one in condemning the ghastly human rights violations taking place in the former Yugoslavia.

4. Germany had for a number of years been calling for the establishment of an office of High Commissioner for Human Rights, to safeguard human rights and collate information on human rights violations. Experience in Germany with the Government of the former German Democratic Republic proved that the fear that crimes would be noted down had its consequences.

5. In point of fact, where human rights were concerned, prevention was better than cure. The best way of preventing violations was to give individuals their fundamental rights. The world was becoming increasingly aware that the resources available could be put to best effect only if general economic and social conditions in the developing world were conducive to economic and development cooperation. The responsibility of the industrialized countries to provide conditions conducive to development as well as assistance in a spirit of solidarity was matched by the assumption by the developing countries of responsibility for their own advancement. The international community had sound instruments at its disposal for that purpose. However, it must also show determination to enforce respect for human rights all over the world.

6. Traditions, value systems and levels of development varied from State to State. Yet no culture should seek to impose its own system of values on others. There was a body of universal and fundamental human rights, guaranteed under international law, which must not be eroded even on grounds of different cultural traditions. Now that the great ideological division of the world had been overcome, the international community could not allow new stereotyped sources of enmity, such as religious prejudice, to emerge. It must put aside differing cultural views, in the interests of reaching a consensus. In such a context, it did not help for one region to accuse another of imposing its own concept of human rights on the international community.

7. In a world whose components were growing ever more interdependent, human rights violations had repercussions beyond national borders. The number of men and women leaving their country of origin was a reflection of the extent to which those rights were violated. Germany was at the forefront of those countries where, for a variety of reasons, refugees hoped to find security and a better life. Millions of foreigners had been living in Germany for years, even decades. The outbreaks of xenophobia in Germany during the previous two years, which had conjured up the sinister shadows of the past, had outraged the vast majority of Germans. After a moment of hesitation, the overwhelming majority of the German population had been galvanized. Millions of people had taken to the streets, delivering a powerful message of hostility to racism and intolerance. As a State based on the rule of law, Germany was resolved to fight xenophobia with all the means at its disposal. For that reason it welcomed the resolution on racism and xenophobia which the Commission had adopted by consensus on 2 March 1993. It also considered that a special rapporteur should be appointed to investigate the disgusting phenomenon of intolerance, whether manifested in institutionalized governmental policy, the actions of individuals or groups within society. However, it was important to distinguish between State terror and grievances in society. Human rights violations by the State left the victims totally without protection. On the other hand, in a free society, even when men and women were persecuted because of the colour of their skin, their nationality or their race, the police and the judiciary were there to bring the guilty to account and to protect potential victims.

8. However, there were also grounds of hope and encouraging signs where human rights were concerned. The Commission on Human Rights, for example, was one of the forums within the international community that had made the largest contribution to realization and protection of human rights. Without painstaking and single-minded cooperation between the States and non-governmental organizations making up the Commission, it would not have been possible to set up that dense network of international treaties and covenants. Similarly, people all over the world placed great hopes in the World Conference on Human Rights, to be held shortly in Vienna. The fact that the Commission on Human Rights had been able to meet for two special sessions was also an encouraging sign of progress. However, a more flexible emergency mechanism was needed for particularly urgent cases, and the Austrian proposal was a step in the right direction in that regard.

9. The Geneva-based Centre for Human Rights constituted the core of United Nations activities in that sphere. The international community must

make every effort to ensure that it functioned properly. Numerous countries wishing to create the legal and structural conditions for a better human rights policy counted on the Centre for assistance - often in vain, since it lacked adequate financial and staff resources. Could it be right that less than 1 per cent of the United Nations budget was allocated to the protection and promotion of human rights?

10. With regard to the instruments for the protection of human rights, Germany considered that, in view of the large number of existing conventions and treaties, priority should be given to effective implementation of the human rights set forth in those instruments, rather than to the codification of additional rights. In a world that was ever more closely knit, men and women everywhere had the same interests. Wherever human rights were respected, peace, security, stability and prosperity were to be found.

RIGHTS OF THE CHILD, INCLUDING:

(a) STATUS OF THE CONVENTION ON THE RIGHTS OF THE CHILD;

(b) REPORT OF THE SPECIAL RAPPORTEUR ON THE SALE OF CHILDREN;

(c) PROGRAMME OF ACTION FOR THE ELIMINATION OF THE EXPLOITATION OF CHILD LABOUR;

(d) PROGRAMME OF ACTION FOR THE PREVENTION OF THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

(agenda item 24) (E/CN.4/1993/65, 66, 67 and Add.1, 86, 95 and 99; E/CN.4/1993/NGO/1; E/CN.4/1992/55 and Add.1; E/CN.4/Sub.2/1992/34 and Corr.1; A/RES/47/112; CRC/C/10)

11. Mr. MUNTARBHORN, Special Rapporteur on the sale of children, introducing his report (E/CN.4/1993/67), said that it covered the period from December 1991 to November 1992. The addendum to the report (E/CN.4/1993/67/Add.1) described his visit to Australia in October 1992. He sincerely thanked all the governmental and non-governmental organizations and individuals who had assisted him in gathering information, and looked forward to working in close collaboration with them in the future in pursuit of the best interests of children. The problems of the sale of children, child prostitution and child pornography were universal. After dealing in previous reports with the issues of the linkage between supply and demand, criminality, the chain effect and the need for a multidisciplinary approach to tackle those problems, he had turned his attention in 1992 to other disquieting aspects of those issues, starting with the increasing transnationalization of the sale of children. New markets were constantly emerging, especially in the eastern European countries with regard to inter-country adoptions. The sale of children for sexual exploitation was also linked to the existence of a network of international trafficking in children between developing and developed countries, between the developing countries themselves, or between the developed countries; and also with cross-frontier abductions and disappearances of children. The situation was worsened by the use of new technology as a means of abusing children. In vitro fertilization and surrogacy were among the practices giving rise to increased commercialization

paralleling a situation of sale. Organ transplants might also have horrific consequences when children were victims of a trade in organs. Next came the problems posed by the use of children in armed conflicts, to transport weapons in combat zones or to participate in the fighting - further practices akin to the sale of children in order to exploit their labour. Wars also resulted in population displacements which often led to the placement of orphans and abandoned children in foster homes, sometimes linked to commercialization. Given that children's security could not be ensured unless their basic needs were satisfied, it was also important to eliminate poverty and promote development so as to prevent their exploitation. The sale of children was also the product of crime. Although child labour had been practised since time immemorial, criminal syndicates and individual exploiters were finding new ways of compelling children to become instruments of crime: more and more children were being used to sell drugs, to steal and to commit other offences, a phenomenon that was to a large extent attributable to the corruption that was rife in some countries, and to the fact that in many of those countries there was a huge divide between laws aimed at protecting children and law enforcement.

12. Four topics were dealt with in the report under the heading "sale of children": adoption for commercial purposes, exploitation of child labour, organ transplantation, and other forms of sale such as the use of children in armed conflicts and the abduction of children. With regard to adoption, the Convention on the Rights of the Child laid down a number of primary principles in order to protect children, including mandatory authorization of the adoption by the competent authorities, exploration of adoption possibilities in the country of origin before proceeding to inter-country adoption, and action to prevent improper financial gain. That initiative had been bolstered by the drafting of a new international convention on inter-country adoptions under the auspices of The Hague Conference on Private International Law and by the adoption by the Commission on Human Rights of the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography, which advocated the introduction of various mechanisms for their protection. The 1980 Hague Convention on the Civil Aspects of International Child Abduction also assisted in tracing abducted children and facilitating their return. Nevertheless, the situation remained disquieting in many parts of the world, particularly in Central and South America and in eastern Europe. The United States of America was also considered as one of the main receiving countries where inter-country adoptions were concerned. Similar situations were also seen in Asia, Africa and Australia.

13. With regard to the sale of children for exploitation of their labour, a matter concerning which much information had been gathered by the International Labour Organisation, he had confined himself to demonstrating that exploitation of child labour was a form of sale of children. At the international level, various instruments provided for the protection of child labourers, including ILO Convention No. 138, the Convention on the Rights of the Child, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The Working Group on Contemporary Forms of Slavery of the Sub-Commission on Prevention of Discrimination and Protection of Minorities had also finalized the draft programme of action for the elimination of the exploitation of child labour, which proposed a series of measures for that purpose. At the national level,

laws on child labour were in force in a large number of countries, but their enforcement often left a good deal to be desired. Instances of exploitation were to be found both in the developing and in the developed countries, but Asia and South America were at the forefront in that regard. Among the facts that had come to light in 1992, the traffic in abducted children between India, Pakistan and Bangladesh and the Gulf countries had been linked with their use in camel racing in some of those countries; attention had been drawn to the discrimination in various countries in South Asia against young girls forced into marriage, and to the trafficking in children between the Lao People's Democratic Republic, Myanmar, China, Cambodia and Thailand, for purposes of prostitution. An increase in the exploitation of child labour in the developed countries, particularly in the United States and in European countries such as Portugal and Russia should also be noted. The plight of street children in Central and South America had not improved, and in Australia, the linkage between children and crime had become more apparent.

14. The question of the sale of children in connection with trafficking in organs was the most sensitive aspect of the Special Rapporteur's mandate. Although there was as yet no international convention on the issue, the implication of the Convention on the Rights of the Child was that the sale of children for such purposes was illegal, a principle bolstered by the World Health Organization in a series of guidelines on the transplantation of human organs. The problem was of particular relevance in Central and South America, but had also been encountered in the South Asian region and in Africa, where there were reports of children's organs being used in ritual sacrifices and ceremonies. It was also important to combat the current practice of commercialization of fragments of human foetus and reproductive organs for various purposes, although in such cases the issue was not strictly speaking one of "human organs".

15. In the context of the sale of children, mention should also be made of disappearances, abductions and kidnappings of children and the question of child soldiers. That problem was widespread in many parts of the world, despite international and national laws regulating or prohibiting the recruitment of children to serve in armed conflicts.

16. The second heading of the report dealt with child prostitution, prohibited by a long line of international instruments relating to slavery, trafficking in and exploitation of women and children, of which the most recent was the Convention on the Rights of the Child. The strategy adopted to combat that scourge in the programme of action drafted by the Commission on Human Rights was to step up information, education, legal measures and law enforcement, social measures and development assistance, rehabilitation and reintegration, and international coordination. The situation at the national level remained disquieting, with cross-frontier trafficking in women and children becoming more and more flagrant in various regions of the world, particularly in a number of Asian countries where the problem was linked with sex tourism, whose practitioners came from various regions, such as Australia, North America, Europe, Japan and the Middle East. The physical and psychological threats to children who were victims of that trafficking were a matter for particular concern; many of them were lured into prostitution by criminal elements, and some were incarcerated in brothels where they ran the risk of contracting AIDS. The situation of girls tricked into prostitution in

Southern Asia was exacerbated by the fact that they were sometimes arrested as illegal immigrants and imprisoned pending their return to their country of origin. Child prostitution had also become more widespread in Africa, Europe and North America, and also in Central and South America, where the problem was linked with the phenomenon of street children. The practices of German, Swiss and Scandinavian paedophiles in the developing countries had led to calls for the extension of the criminal jurisdiction of those countries to cover acts committed by their nationals against children abroad.

17. With regard to child pornography, the subject of the third heading of the report, at the international level, the Convention on the Rights of the Child made provision for the adoption of measures to prevent the exploitation of children in the production of pornographic performances and material, and the Programme of Action of the Commission stressed the need to criminalize the possession of child pornography and to control new forms of technology used for that purpose. Techniques such as Minitel in France were widely used in a number of countries of Europe for such purposes. The sale of pornographic videotapes involving children was a phenomenon that was becoming increasingly widespread, particularly in North America but also in Asia and Africa.

18. As Special Rapporteur, he had communicated directly with a number of Governments, including the Austrian Government, with a request for further information on the alleged promotion by Lauda Air of sex tourism packages to Thailand for paedophiles; and the German Government, regarding a publication entitled Spartacus promoting sex tourism and child pornography. He had also requested information from the Governments of Saudi Arabia and the United Arab Emirates concerning the practice of bringing children purchased abroad to those countries for use in camel racing; and from the Government of Thailand regarding the recruitment of girls for prostitution. Most of those Governments had denied the alleged practices. Nevertheless, new laws had been adopted in the United Arab Emirates in 1993, aimed at protecting children compelled to participate in camel racing. All those situations also gave cause for concern, and required independent monitoring and long-term assessments at the national and local levels. He had formulated several recommendations on the preventive measures and sanctions to be adopted, inter alia in paragraphs 228, 232 to 244, 247 to 250 and 252 to 258 of his report, to which he drew the Commission's attention. He hoped that those recommendations would be effectively implemented, in the interests of children the world over.

The public meeting rose at 11.25 a.m.